

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TABERNA CAPITAL MANAGEMENT, :  
LLC, and LARRY LATTIG, Litigation Trustee for :  
the First Magnus Litigation Trust, as Successor in :  
Interest herein to Taberna Capital Management, :  
LLC and The Bank of New York Mellon Trust :  
Company, N.A., in its Capacity as Trustee Under :  
The Indenture and Property Trustee for the :  
First Magnus TPS Trust :

Plaintiff,

- against -

GURPREET S. JAGGI,

Defendant.  
-----X

No. 08 Civ. 11355 (DLC)

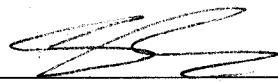
**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of G. Todd Jackson, Esq., dated November 24, 2010 and the Exhibits referenced therein, the accompanying Memorandum of Law and all the pleadings and papers heretofore filed, Defendant, Gurpreet S. Jaggi, by his attorneys, Kane Kessler, P.C., and Butler Oden & Jackson, P.C. shall move this Court, before the Honorable Denise L. Cote, in the United States Courthouse at 500 Pearl Street, New York, New York, 10017, Courtroom 11B, for an Order (1) precluding the testimony of Plaintiffs' expert, Lawrence D. Morriss ("Morriss") from trial pursuant to F.R.E. Rules 403 and 702 upon the grounds that such testimony is unreliable, irrelevant and inadmissible pursuant to the aforesaid rules and the applicable law; (2) striking the original July 30, 2010 report and November 4, 2010 revised report of Morriss from the record on Defendant's October 22, 2010 Motion for Summary Judgment in this action pursuant to F.R.E. Rules 403 and 702 and F.R.C.P. Rule 56(e) and (3) sanctioning Plaintiffs pursuant to F.R.C.P. Rule 37(c) for their failure to comply with their

obligations of disclosure as set forth in F.R.C.P. Rule 26(e) and the Order of the Court dated April 9, 2010 by (i) precluding Plaintiffs from introducing Morriss' testimony at trial and in connection with Defendant's October 22, 2010 Motion for Summary Judgment, (ii) requiring Plaintiffs to pay professional fees incurred by Defendant in preparing a rebuttal to Morriss' flawed expert report and/or (iii) dismissing Plaintiffs' claims.

Dated: New York, New York  
November 24, 2010

**KANE KESSLER, P.C.**

By:   
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